

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**DYSON TECHNOLOGY LIMITED
and DYSON, INC.,
Plaintiffs,**

Y.

MAYTAG CORPORATION,
Defendant.

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Civil Action No. 05-434 GMS

REDACTED FOR PUBLIC FILING

**DEFENDANT HOOVER, INC.'S MEMORANDUM OF LAW IN SUPPORT OF ITS
MOTION *IN LIMINE* TO EXCLUDE THE EXPERT TESTIMONY
OF PLAINTIFFS' WITNESS JAMES WIDDOWSON
AND STRIKE HIS EXPERT REPORT UNDER *DAUBERT***

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Defendant/Counterclaim Plaintiff Hoover, Inc. ("Hoover") respectfully moves this Court for an order excluding the testimony and striking the expert report of James Widdowson, an expert witness Dyson Technology Ltd. and Dyson, Inc. (collectively "Dyson").

I. FACTUAL BACKGROUND

Dyson seeks to offer the expert testimony of Widdowson.

II. ARGUMENT

Expert testimony must be "not only relevant, but reliable." *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 589 (1993); *see also* Fed. R. Evid. 702. To be deemed reliable, an "expert's opinion must be based on the 'methods and procedures of science' rather than on 'subjective belief or unsupported speculation.'" *In re Paoli R.R. Yard PCB Litig.*, 35 F.3d 717, 742 (3d Cir. 1994). The Third Circuit has enunciated the following factors, among others, for courts to consider when evaluating the reliability of expert testimony: (1) whether a method consists of a testable hypothesis; (2) the known or potential rate of error; and (3) the existence and maintenance of standards controlling the technique's operation. *Paoli*, 35 F.3d at 742 n.8.

For the foregoing reasons, the test results contained in Widdowson's report are unreliable according to Rule 702, *Daubert*, and Third Circuit precedent and,

Dated: April 16, 2007

Respectfully submitted,¹

HOOVER, INC.



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CERTIFICATE OF SERVICE

I, Francis DiGiovanni, hereby certify that on April 16, 2007, copies of the foregoing document were served on the following counsel of record in the manner indicated:

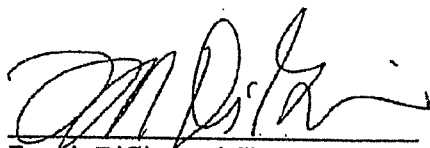
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